

**LETTER OF FINDINGS NUMBER: 04-0091**  
**Controlled Substance Excise Tax**  
**For the Tax Period 2001**

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**ISSUES**

**I. Controlled Substance Excise Tax- Imposition**

**Authority:** IC 6-8.1-5-1 (b), IC 6-7-3-5, IC 6-7-3-1.

The taxpayer protests the imposition of controlled substance excise tax.

**STATEMENT OF FACTS**

The taxpayer's residence was searched on December 14, 2001. The officers found a variety of controlled substances, drug paraphernalia, and indoor grow equipment. The taxpayer pled guilty to Operating a Vehicle with Controlled Substance in Blood. On January 6, 2004, the County Prosecutor requested in writing that controlled substance excise tax be imposed against the taxpayer. The Indiana Department of Revenue, hereinafter referred to as the "department," issued a Record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on January 15, 2004 in a base tax amount of \$21,317.20. The taxpayer filed a protest to the assessment and a telephone hearing was held. This Letter of Findings results.

**I. Controlled Substance Excise Tax- Imposition**

**DISCUSSION**

All notices of assessment issued by the department are presumed to be correct. The taxpayer bears the burden of proving that the assessment of tax is incorrect. IC 6-8.1-5-1(b).

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the possession of controlled substances in the State of Indiana. Methamphetamine, amphetamine, and marijuana are defined as controlled substances subject to the excise tax. IC 6-7-3-1. The amphetamine, methamphetamine, and marijuana assessed were actually tested and weighed by an employee of the department. Since the remainder of the controlled substances seized from the taxpayer's house were destroyed pursuant to court order, no additional controlled substance excise tax was assessed.

The taxpayer contends that the controlled substances were illegally seized because the police officer was later fired for cause. The taxpayer did provide overwhelming evidence that the police officer was fired for cause. The evidence provided, however, does not suggest that the police officer acted in an inappropriate or illegal fashion in this particular arrest and seizure of evidence.

**FINDING**

The taxpayer's protest is denied.